

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

DEREK FOLLEY,

Petitioner,

: Case No. 3:22-cv-065

- vs -

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

KEITH J. FOLEY, Warden,

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Respondent.

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**REPORT AND RECOMMENDATIONS ON PETITIONER'S MOTION  
FOR SUMMARY JUDGMENT ON DOUBLE JEOPARDY AND  
MULTIPLICITY GROUNDS**

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This habeas corpus case, brought *pro se* by Petitioner Derek Folley under 28 U.S.C. § 2254, is before the Court on Petitioner's Motion for Summary Judgment on his claims that his conviction violates the Double Jeopardy Clause and prohibitions on multiplicity in indictments (ECF No. 183). The Magistrate Judge respectfully recommends the Motion be denied on the same basis as he recommended Petitioner's Motion for Summary Judgment on speedy trial grounds be denied (ECF No. 179).

October 20, 2022.

**NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report

and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6, but service is complete when the document is mailed, not when it is received. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #

*s/ Michael R. Merz*  
United States Magistrate Judge